F. & D. Nos. 3798, 3804, 3805, 3806, 3807, 3812, 3823, and 3824.
S. Nos. 578-d, 1530-d, 1531-d, 1532-d, 1534-d, 14983-c, 3777-d, 5521-d, 3274-d, 10063-d, and 14996-c.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2731.

(Given pursuant to section 4 of the Food and Drugs Act.)

U. S. v. Melville Liebenthal and Sylvester Liebenthal (Liebenthal Bros. & Co.). Plea of nole contendere. Fine, \$200 on count 1 and \$50 on each of counts 2 to 19, inclusive, and costs. No penalty imposed on counts 20 and 21 of the information.

ADULTERATION AND MISBRANDING OF CREME DE VIOLETTE; MISBRANDING OF QUININE-WHISKEY; ADULTERATION AND MISBRANDING OF BANANA FLAVOR CORDIAL; ADULTERATION AND MISBRANDING OF RUSKA NALIVKA OR CHERRY BRANDY; ADULTERATION AND MISBRANDING OF VODKA; ADULTERATION AND MISBRANDING OF TIGERO SLIVOWITZ OR WODKA; ADULTERATION AND MISBRANDING OF IMPERIO BLACKBERRY CORDIAL; ADULTERATION AND MISBRANDING OF APRICOT CORDIAL; ADULTERATION AND MISBRANDING OF RUSKA NALIVKA OR CHERRY CORDIAL; ALLEGED ADULTERATION AND MISBRANDING OF MARASCHINO CHERRIES.

On October 24, 1912, the United States Attorney for the Northern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in 21 counts against Melville Liebenthal and Sylvester Liebenthal, trading under the firm name and style of Liebenthal Bros. & Co., Cleveland, Ohio, alleging shipment by said defendants, in violation of the Food and Drugs Act—

(1) On or about January 9, 1911, from the State of Ohio into the State of Pennsylvania, of a quantity of Creme de Violette which was adulterated and misbranded. The product was labeled: (Neck label) "Lenora—Lenora Exquisite". (Front label): "Lenora Exquisite Creme de Violette Compound Artificially Colored Lenora Exquisite". (Back): "Exquisite Quality". Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Coal-tar color, present; the color is a basic dye and corresponds to Methyl Violet B. (S. & J. 451) in shade,

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manner of dyeing, reaction on wool, and other reactions. Adulteration of the product was alleged in the second count of the information for the reason that it was colored with Methyl Violet, an added deleterious ingredient which might render it injurious to health. Misbranding was alleged in the first count of the information for the reason that the statement on the label "Creme de Violette" was misleading and deceptive as it conveyed the impression that the article was a French product, whereas in fact it was of domestic manufacture. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser; the label being partly in the French language was such as to convey the impression that the product was of French origin, whereas it was of domestic manufacture.

(2) On or about February 25, 1911, from the State of Ohio into the State of Michigan, of a quantity of quinine-whiskey which was misbranded. This product was labeled: (On bottles) "Day & Night Quinine-Whiskey A Compound Invigorating strengthening mellow beneficial". (Cut depicting waitress or nurse bearing a bottle upon a tray). "The Taste Lingers. Liebenthal Bros. & Co., Cleveland, O. Day & Night Quinine-Whiskey. The Taste Lingers. In producing our Quinine-Whiskey the object of the Producers was to have something that would be acknowledged by the Connoisseurs superior to any other similar article yet placed upon the market. Unusual precaution was therefore taken in the secret formula owned by us with the result that our Quinine-Whiskey is now regarded as the finest made by all dealers. In addition our Quinine-Whiskey possesses such excellent qualities that it is used by Adults as well as Children, and it has attained such a grand reputation that no home should be without it. In order to guard the public against the numerous and injurious imitations of our Day & Night Quinine-Whiskey, caution all persons to satisfy themselves before purchasing of its genuineness. Guaranteed under the National Pure Food Law. U. S. serial No. 2521." (Similar label in German.) Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Specific gravity at 25° C., 0.9285; solids (grams per 100 cc), 0.438; ash (grams per 100 cc), 0.0020; alcohol (per cent by volume), 50.3; quinine, absent. Misbranding of the product was alleged in the third count of the information for the reason that the statement on the label "Quinine" was false and misleading as it conveyed the impression that the product contained quinine, whereas in fact no quinine was present therein, and for the further reason that it contained 50.3 per cent alcohol and the label on the package containing the sample failed to bear a statement of the quantity or proportion of this substance which was present in the preparation.

- (3) On or about April 21, 1911, from the State of Ohio into the State of Minnesota, of a quantity of banana flavor cordial which was adulterated and misbranded. This product was labeled: "Banana Flavor Cordial. Artificially colored. The contents of this bottle is of delicate flavor and splendid Body" (Neck label): "Exquisite Liqueurs. Superior Quality" (Reverse label): "Exquisite Quality." (On cap covering cork) "Special Bottling". (Foreign coat of (On shipping case): "Fruit Cordial—Banana Flavor. Exquisite Flavor. Exquisite Quality Liqueurs—U. S. Serial No. 2521—Guar- under the Nat. Pure F & D Law—Barret & Barret, St. Paul, Minn." Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Alcohol (per cent by volume), 20.96; reducing sugars direct, none; sucrose by copper (grams per 100 cc), 34.25; specific gravity at 15.6°/15.6° C., 1.10558; solids by evaporation in vacuum (grams per 100 cc), 34.35; nonsugar solids (grams per 100 cc), 0.10; ash (grams per 100 cc), 0.006. Adulteration of this product was alleged in the fifth count of the information for the reason that an imitation banana flavor cordial had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength, and that said substance had been substituted wholly or in part for the genuine banana flavor cordial which the article purported to be. Misbranding was alleged in the fourth count of the information for the reason that the statement on the label, to wit, "Banana Flavor Cordial," was false and misleading in that it conveyed the impression that the product was a genuine banana flavor cordial, whereas in fact it was an imitation banana flavor cordial, and for the further reason that it was an imitation banana flavor cordial, sold under the distinctive name of another article, to wit, banana flavor cordial, and for the further reason that it was labeled and branded so as to deceive and mislead the purchaser into the belief that it was a cordial with a genuine banana flavor, whereas in fact it was a cordial with an artificial banana flavor.
- (4) On or about April 29, 1911, from the State of Ohio into the State of Illinois, of a quantity of Ruska Nalivka, or Cherry Brandy, which was adulterated and misbranded. This product was labeled: "Ruska Nalivka Kiebckar Type—Cherry Brandy. A compound B N 111 Hebka. Appetizing, Satisfying, A 11 11 ETNHA BKYC 11 A. U. S. Serial No. 2521. Guaranty Legend." (On neck label) "Ruska Nalivka." Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Specific gravity, 1.1519; alcohol (per cent by volume), 10.77; solids (grams per 100 cc), 42.80; nonsugar solids (grams per 100 cc), 1.8; total sugar, after inversion (grams per 100 cc), 41.00; reducing sugar, direct (grams per 100 cc), 41.00; ash (grams per 100 cc), 0.22; alkalinity

soluble ash (cc N/10 alkali per 100 cc), 19.0; P₂O₅ soluble in water (mg per 100 cc), 9.2; P₂O₅ insoluble in water (mg per 100 cc), 10.9; polarization, direct, at 20° C., undiluted, -48°V.; polarization, invert, at 20° C., undiluted, -48°V.; polarization, invert, at 87° C., 0; commercial glucose, none; salicylic acid, none; saccharin, none; benzoic acid (grams per 100 cc), 0.02; color, no anilin dye, appears to be natural. Adulteration of the product was alleged in the seventh count of the information for the reason that a substance, to wit, an imitation cherry cordial, flavored with benzaldehyde and colored with a coal-tar dye, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength and, further, for the reason that said substance had been substituted wholly or in part for the genuine cherry cordial which the article purported to be. Misbranding was alleged in the sixth count of the information for the reasons: First, that the statement "Cherry Flavor" appearing on the label was false and misleading as it conveyed the impression that the product was a genuine cherry flavor cordial, whereas in fact it was an imitation cherry cordial, flavored with benzaldehyde and colored with coal-tar dye; second, that the statement "Ruska Nalivka Cordial" was false and misleading as it conveyed the impression that the product was a genuine cherry cordial of foreign origin, whereas in fact it was an imitation cherry cordial of domestic manufacture; third, that it was an imitation of and was offered for sale under the distinctive name of another article, to wit, cherry cordial; fourth, that it was labeled and branded so as to deceive and mislead the purchaser into the belief that it was a genuine cherry cordial, whereas in fact it was an imitation cherry cordial, artificially flavored with benzaldehyde and colored with coaltar dyes; fifth, that it purported to be a foreign product, to wit, of the country of Russia, whereas in fact it was of domestic origin; and sixth, that the guaranty legend appearing on the label thereof was false and misleading as the failure to give the name of the manufacturer conveyed the impression that the purity of the product was guaranteed by the United States Government, when such was not the case.

(5) On May 10, 1911, from the State of Ohio into the State of Massachusetts, of a quantity of vodka which was adulterated and misbranded. This product was labeled: "Vodka Russian Style Brandy." Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Specific gravity, 0.9331; alcohol (per cent by volume), 49.70; extract, 0.077 gram per 100 cc.; predominating flavor, caraway. Adulteration of the product was alleged in the eighth count of the information for the reason that an imitation vodka had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength, and for the

further reason that said substance had been substituted wholly or in part for the vodka which the label represented the article to be. Misbranding was alleged in the ninth count of the information for the reasons: First, that the label was false and misleading as it represented the product to be vodka, Russian style brandy, when in fact it was an imitation vodka; second, that said product was an imitation of vodka and offered for sale under the distinctive name of another article, to wit, vodka, Russian style brandy; third, that the label was branded so as to deceive and mislead the purchaser into the belief that the product was genuine vodka brandy, Russian style, whereas in fact it was an imitation vodka brandy; and, fourth, that it purported to be a foreign product, to wit, of the country of Russia, when in fact the same was of domestic origin.

(6) On or about May 10, 1911, from the State of Ohio into the State of Massachusetts of a quantity of ruska nalivka or cherry brandy which was adulterated and misbranded. This product was labeled: "Ruska Nalivka—Kiebcka Type—Cherry Brandy—A compound B N 111 H E B K A—Appetizing & Satisfying—A 11 11 ETNTHABKYC11 AU. S. Serial No. 2521. Guaranteed under the National Pure Food Law." Analysis of a sample of this product by said Bureau of Chemistry showed the following results: Alcohol (per cent by volume), 9.02; solids (grams per 100 cc), 31.47; polarization, direct, -5.6° V.; benzoic acid (grams per 100 cc), 0.043; Mohler test, positive; alcohol precipitate (grams per 100 cc), 0.22; artificial color, Amaranth S. & J. No. 107; benzaldehyde (grams per 100 cc), 0.0418. Adulteration of the product was alleged in the tenth count of the information for the reason that an imitation cherry cordial, artificially colored and flavored, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that said substance had been substituted wholly or in part for the cherry brandy which the article purported to be. Misbranding was alleged in the eleventh count of the information for the reasons: First, that the statement "Cherry Brandy," appearing on the label, was false and misleading as it conveyed the impression that the product was a genuine cherry brandy, whereas in fact it was an imitation cherry cordial, artificially colored and flavored; second, that the portion of the label in the Russian language conveyed the impression that the product was of foreign origin, whereas in fact it was of domestic manufacture; third, that the statement "Guaranteed under the National Pure Food Law" was misleading and deceptive as said statement without the name of the guarantor conveyed the impression that the purity of the product was guaranteed by the Government of the United States when such was not the fact; fourth, that it was an imitation of and offered for sale under the distinctive name of another article, to wit, cherry brandy; fifth, that it was labeled and branded so as to deceive and mislead the purchaser into the belief that it was a genuine cherry brandy of foreign production, whereas, in truth and in fact, it was an imitation cherry brandy, artificially colored and flavored and manufactured in the United States; and, sixth, that it purported to be a foreign product, the portion of the label in the Russian language being such as to convey this impression, when in fact the same was a product of domestic origin.

- (7) On May 10, 1911, from the State of Ohio into the State of Massachusetts of a quantity of Tigero slivowitz or wodka which was adulterated and misbranded. This product was labeled: "Tigero— Quality Superfine—Tigero Slivowitz—A compound—Hungarian style—Staropolska- Wodka-Smocazna-1-Przyjemma Do Picia—Old Country Style—Pleasant and wholesome to drink." (Strong claims of quality on back label.) Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Proof, 82.0; alcohol (per cent by volume), 41.0; total solids (grams per 100 cc), 0.235; total esters as ethyl acetate (grams per 100,000 cc of 100 proof), 59.0; color, caramel; color, insoluble in amyl alcohol, 68 per cent; higher alcohols as amyl alcohol (grams per 100,000 cc of 100 proof), 31.1. Adulteration of the product was alleged in the twelfth count of the information for the reason that an imitation brandy, colored with caramel, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that said substance had been substituted wholly or in part for the old Polish brandy, which the label represented the article to be. Misbranding was alleged in the thirteenth count of the information for the reasons: First, that the label in its entirety was false and misleading, as it represented the product to be an old Polish brandy of foreign origin, whereas in fact the same was an imitation brandy of domestic manufacture; second, that it was an imitation of and offered for sale under the distinctive name of another article, to wit, old Polish brandy; third, that it was labeled and branded so as to deceive and mislead the purchaser into the belief that it was a genuine old Polish brandy, whereas in fact it was an imitation brandy of domestic manufacture; and, fourth, that it purported to be a foreign product, to wit, of the country of Poland, whereas in fact it was of domestic manufacture.
- (8) On or about May 10, 1911, from the State of Ohio into the State of Massachusetts, of a quantity of blackberry cordial which was adulterated and misbranded. This product was labeled: "Imperio Blackberry Cordial. Imperio Blackberry flavored cordial—Contains harmless color. This delicious Blackberry Cordial is a compound which contains the very best ingredients obtainable, is refreshing as well as healthy and bottled under the direct supervision of cordial

experts." Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Specific gravity, 1.0991; alcohol, 7.20 per cent; solids (grams per 100 cc), 30.69; ash (grams per 100 cc), 0.21; polarization, direct, at 20° C., +11.36° V., invert, at 20° C., -6.24° V., invert, at 87° C., +2.12° V.; sucrose, 13.26 per cent; glucose, 1.30 per cent; benzoic acid as sodium benzoate, 0.069 per cent; color, Amaranth S. & J. No. 107, Orange I. S. & J. No. 85; benzaldehyde, none present. Adulteration of the product was alleged in the fourteenth count of the information for the reason that an imitation blackberry cordial had been mixed and packed with the product so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that said substance had been substituted wholly or in part for the genuine blackberry cordial which the article purported to be. Misbranding was alleged in the fifteenth count of the information for the reasons: First, that the statement "Blackberry Cordial" on the label was false and misleading as it conveyed the impression that the product was genuine blackberry cordial, when in fact the same was an imitation of that article; second, that the label represented the article as a blackberry cordial made without the use of an artificial preservative, no mention of such preservative being made on the label, whereas in fact the same contained 0.069 per cent of benzoate of soda, an artificial preservative; third, that it was an imitation blackberry cordial sold under the distinctive name of another article, to wit, blackberry cordial; and, fourth, that it was labeled and branded so as to deceive and mislead the purchaser into the belief that it was a genuine blackberry cordial, containing no artificial preservative, whereas in fact it was an imitation blackberry cordial, artificially colored with a coal-tar dye, and containing benzoate of soda, an artificial preservative.

(9) On or about May 22, 1911, from the State of Ohio into the State of Missouri, of a quantity of apricot cordial which was adulterated and misbranded. This product was labeled: (On one end of barrel) "Cordial Apricot". (On other end of barrel) "Cordial Apricot—Sam. U. Irons—U. S. Gauger—18 Dist. Ohio—May 18, 1911 (Stamp H 1682522)—Containing no poisonous drug or other added poison Liebenthal Bros & Co., Rectifiers & Wholesale liquor dealers—Cleveland, Ohio." (On tag attached to barrel) "From Liebenthal Bros. & Co., Cleveland, Ohio—Distillers of Cordials Fruit Brandies and Liquors—To Joplin Merc. Co.—928 N. 2nd St., St. Louis, Mo." Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Specific gravity 15.56° C. (hydrometer), 1.105; alcohol, per cent by volume, 22.10; solids (by evaporation) (grams per 100 cc), 38.06; non-sugar solids (grams per 100 cc), 2.28; sucrose by Clerget (grams per 100 cc), 34.4; re-

ducing sugar as invert before inversion (grams per 100 cc), 1.38; polarization, direct, at 31° C., normal weight, 32.3° V.; polarization, invert; at 31° C., normal weight. -9.5° V.; ash (grams per 100 cc), 0.015; lead acetate precipitate, very light, flocculent; methyl alcohol, none; esters as ethyl butyrate (grams per 100 cc), 0.10; glucose, none; tartrates, absent; color, caramel; esters (grams per 100 liters), 18.48; volatile acids (grams per 100 liters), 8.40. These results showed the product to be an imitation apricot flavored cordial. Adulteration of the product was alleged in the sixteenth count of the information for the reason that a substance, to wit, an imitation apricot flavored cordial, had been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that said substance had been substituted wholly or in part for the genuine apricot cordial which the article purported to be. Misbranding was alleged in the seventeenth count of the information for the reasons: First, that the statement on the label thereof "Cordial Apricot" was false and misleading as it conveyed the impression that the product was a genuine apricot cordial, whereas in fact the same was an imitation apricot flavored cordial; second, that it was an imitation of and offered for sale under the distinctive name of another article, to wit, apricot cordial; and, third, that it was labeled and branded so as to deceive and mislead the purchaser into the belief that it was a cordial of genuine apricot flavor, whereas in fact it was an imitation apricot flavored cordial.

(10) On or about July 18, 1911, from the State of Ohio into the State of Missouri, of a quantity of ruska nalivka cordial, cherry flavored, which was adulterated and misbranded. This product was labeled: (On case) "Glass. This side up with care, contents 12 bottles J Simon & Sons, St. Louis, Mo. Ruska Nalivka Cordial— (On bottles) (Neck label) "Ruska Nalivka-ska Cherry flavor." Nalivka." (Principal label) "Ruska Nalivka KIEBCKS Type Cherry Cordial A compound BNI11 BEBKA Appetizing & Satisfying A 11 11 ET NTHABKYC 11 A Guaranteed by Liebenthal Bros. & Co., Cleveland, Ohio, under the National Pure Food Law. U. S. Serial No. 2521." Analysis of a sample of the product by said Bureau of Chemistry showed the following results: Alcohol (per cent by volume), 8.98; solids, by specific gravity (grams per 100 cc), 37.89; sucrose by copper (grams per 100 cc), 0.86; specific gravity 15.6°/ 15.6° C., 1.13311; reducing sugars, direct (grams per 100 cc), 34.06; reducing sugars, invert (grams per 100 cc), 34.93; nonsugar solids (grams per 100 cc), 2.97; alkalinity water soluble ash (cc N/10 alkali per 100 cc), 21.4; glycerol (grams per 100 cc), 0.44; benzoic acid, as sodium benzoate (grams per 100 cc), 0.07; polarization, direct, at 20° C., -8.7° V.; polarization, invert, at 87° C., -0.4° V.; ash (grams per 100 cc), 0.23; total P₂O₅ (mg. per 100 cc), 10.7; ester as ethyl acetate (grams per 100 cc), 0.047; color, Amaranth S. & J. No. 107; benzaldehyde, present. Adulteration of the product was alleged in the eighteenth count of the information for the reason that a substance, to wit, an imitation cherry cordial, flavored with benzaldehyde and colored with a coal-tar dye, had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that said substance had been substituted wholly or in part for the genuine cherry cordial which the article purported to be. Misbranding was alleged in the nineteenth count of the information for the reasons: First, that the statement "Cherry Flavor" appearing on the label was false and misleading as it conveyed the impression that the product was a genuine cherry flavor cordial, flavored with benzaldehyde and colored with coal-tar dye; second, that the statement "Ruska Nalivka Cordial" was false and misleading as it conveyed the impression that the product was a genuine cherry cordial of foreign origin, whereas in fact it was an imitation cherry cordial of domestic manufacture; third, that it was an imitation of and was offered for sale under the distinctive name of another article, to wit, cherry cordial; fourth, that it was labeled and branded so as to deceive and mislead the purchaser into the belief that it was a genuine cherry cordial, whereas in fact it was an imitation cherry cordial, artificially flavored with benzaldehyde and colored with a coal-tar dye; and, fifth, that it purported to be a foreign product, to wit, of the country of Russia, whereas in fact the same was of domestic origin.

(11) On or about July 27, 1911, from the State of Ohio into the State of Florida, of a quantity of White Rose Maraschino Cherries which were alleged to have been adulterated and misbranded. product was labeled: "White Rose Maraschino Cherries. Harmless Color and Preserved with 1/30 of 1% sulphur dioxide. Liebenthal Bros. & Co., Cleveland, O. Exquisite Quality Delicious Fruit. Especially prepared. Maraschino Cherries." Analysis of a sample of this product by said Bureau of Chemistry showed the following results: Weight, O. K.; benzoic acid (Mohler's test), positive; benzoic acid, 0.05 per cent; salicylic acid, negative; SO₂, 0.054 per cent; nitrobenzole, negative; benzaldehyde, positive; artificial benzaldehyde (Leach test), positive; coal-tar color present, identified as Ponceau 3 R and Orange I; alcohol (per cent by volume), 0.32; remarks, cherries have a decided sour taste. Adulteration of the product was alleged in the twentieth count of the information for the reason that a substance, to wit, ordinary cherries flavored with benzaldehyde and artificially colored with coal-tar dyes, had been mixed and packed with the article so as to reduce and lower its quality and strength, and for the further reason that said substance had been substituted wholly or in part for the genuine maraschino cherries, which the article purported to be. Misbranding was alleged in the twenty-first count of the information for the reasons: First, that the statement on the label "Maraschino Cherries" was false and misleading as it conveyed the impression that the product was genuine marasca cherries, preserved in maraschino liqueur or cordial, whereas in fact it consisted of ordinary cherries, packed in liqueur, flavored with benzaldehyde and artificially colored with coal-tar dyes; second, that said label represented the product to be genuine maraschino cherries, preserved only with one-thirtieth of 1 per cent of sulphur dioxid, whereas in fact it contained in addition to the preservative named a quantity of another artificial preservative, to wit, benzoate of soda, the presence of which was not declared on said label; and, third, that said label misled and deceived the purchaser into the belief that the product was genuine maraschino cherries, consisting of marasca cherries flavored with a liqueur or cordial prepared by fermentation from said cherries, whereas in fact it consisted of ordinary cherries, flavored with benzaldehyde and artifically colored with coal-tar dyes and preserved with benzoate of soda. It was also alleged in each count of the information that the offense therein described and set forth was committed by defendants subsequent to the commission by said defendants of offenses set forth and described in Case Docket No. 3492, in which they pleaded guilty on December 4, 1911.

On June 27, 1913, defendants entered pleas of nolo-contendere to the information and the court imposed a fine of \$200 on the first count of the information and \$50 on each of counts 2 to 19, inclusive, aggregating \$1,100, and costs. No penalty was imposed on the twentieth and twenty-first counts of the information.

C. F. Marvin,
Acting Secretary of Agriculture.

Washington, D. C., October 9, 1913. 2731

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